

the purpose for which they were originally promulgated. Accordingly, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period, with the following technical changes:

N.J.A.C. 11:17E-1.1(c) is changed to reflect the correct title number in citation for the “Liability Risk Retention Act of 1986” to 15 and N.J.A.C. 11:17E-1.3(c) is changed to reflect the Department’s correct return address to New Jersey Department of Banking and Insurance, Consumer Protection Services—Licensing, 20 West State Street, PO Box 329, Trenton, NJ 08625-0329.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. CONVICTED PERSONS; WAIVERS

11:17E-1.1 Purpose and scope

(a)-(b) (No change.)

(c) This subchapter applies to all insurers doing business in this State pursuant to Title 17, 17B, or 26 of the New Jersey Statutes, or any risk retention group or purchasing group operating pursuant to the “Liability Risk Retention Act of 1986,” [18]15 U.S.C. §§ 3901 et seq., or other similar risk retention organization organized pursuant to State law.

11:17E-1.3 Prohibited activities; requirement to obtain waiver; determination of appropriate state

(a)-(b) (No change.)

(c) All prohibited persons seeking to obtain a waiver in accordance with (a) above shall complete and file “Application for Waiver Short Form” or “Application for Waiver Comprehensive Form,” set forth [in] at Exhibits A and B respectively in the Appendix to this chapter and incorporated herein by reference to:

New Jersey Department of Banking and Insurance
[1033 Compliance] **Consumer Protection Services—Licensing**
PO Box [324] **329**
Trenton, NJ 08625-[0324]**0329**

(d) (No change.)

(a)

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Notice of Readoption

Health Maintenance Organizations

Readoption with Technical Changes: N.J.A.C. 11:24

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17B:30-54, 26:2J-21, and 26:2S-18.

Authorized By: Marlene Caride, Commissioner, Department of Banking and Insurance.

Effective Dates: November 30, 2021, Readoption;
January 3, 2022, Technical Changes.

New Expiration Date: November 30, 2028.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 11:24 were scheduled to expire on January 14, 2022. The rules in this chapter were promulgated to implement N.J.S.A. 26:2J-1 et seq. (the Act), which governs the establishment and operation of health maintenance organizations (HMOs) in the State of New Jersey and contain the following subchapters:

N.J.A.C. 11:24-1 provides the scope and definitions applicable to this chapter.

N.J.A.C. 11:24-2 contains the criteria for the establishment, maintenance, denial, and withdrawal of an HMO’s certificate of authority in this State.

N.J.A.C. 11:24-3 establishes general standards for HMO operations related to the provision of services, enrollment, and termination of members, as well as handling applications from and termination of health care providers from an HMO’s network.

N.J.A.C. 11:24-4 requires that the HMO designate a medical director to oversee a number of its operations and sets forth the medical director’s responsibilities.

N.J.A.C. 11:24-5 describes the minimum health care services that an HMO member contract must contain.

N.J.A.C. 11:24-6 establishes the minimum standards for an HMO’s network of health care providers.

N.J.A.C. 11:24-7 sets forth certain requirements regarding continuous quality improvement programs and use of performance and outcome measures.

N.J.A.C. 11:24-8 requires that HMOs have a utilization management program under the direction of the medical director, and that the program meet certain standards. An Appendix to the rules contains an Explanation of an Individual’s Right to Appeal Health Insurance Determinations.

N.J.A.C. 11:24-9 contains the standard disclosure requirements that HMOs must make to members and other consumers.

N.J.A.C. 11:24-10 establishes standards for the maintenance and handling of medical records.

N.J.A.C. 11:24-11 establishes financial standards, solvency, and related reporting requirements for HMOs.

N.J.A.C. 11:24-12 contains provisions related to the rehabilitation, conservation, and liquidation of HMOs.

N.J.A.C. 11:24-13 establishes standards for the licensing of agents and brokers employed by or acting on behalf of HMOs, contains certain disclosure requirements regarding provider compensation arrangements, and clarifies that certain other Department of Banking and Insurance (Department) rules relating to marketing, trade practices, and claims handling apply to HMOs.

N.J.A.C. 11:24-14 sets forth the standards by which HMOs may develop and offer a point-of-service (POS) product, and procedures for obtaining approval of such products.

N.J.A.C. 11:24-15 establishes standards for the transfer of risk between HMOs, health care providers, and intermediary organizations, and specifies when such a transfer of risk is, or is not, permissible.

N.J.A.C. 11:24-17 sets forth basic requirements for HMO plan documents, such as enrollment contracts, certificates, evidences of coverage, and handbooks.

N.J.A.C. 11:24-18 establishes standards for the development and use of drug formularies by HMOs, and an appendix to the subchapter contains the Actuarial Justification of Benefit Differentials—Formulary Drug Benefit form.

The Department has reviewed N.J.A.C. 11:24 and has determined the existing rules continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Accordingly, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period, with the following technical changes: adding the Department’s website address and correcting the Department’s physical address set forth at N.J.A.C. 11:24-2.2(a), deleting the Department’s outdated 609-292-5316 x50998 telephone number, and correcting the punctuation by removing the comma after the toll free telephone number set forth in the appendix at N.J.A.C. 11:24-8, and correcting the filing information set forth at N.J.A.C. 11:24-14.3(e) and 14.6.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. ESTABLISHMENT OF HEALTH MAINTENANCE ORGANIZATIONS

11:24-2.2 Application for a new or amended certificate of authority

(a) Any person, organization, or corporation desiring to establish and/or operate an HMO shall apply to the Commissioner for a certificate of authority, pursuant to N.J.S.A. 26:2J-1 et seq. Applications for a certificate of authority may be obtained from:

New Jersey Department of Banking and Insurance
Valuations Bureau
[Life and Health Division] **Office of Solvency Regulation**
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

https://www.state.nj.us/dobi/division_insurance/managedcare/mc_apps.htm#hmo

1.-2. (No change.)
(b)-(c) (No change.)

SUBCHAPTER 8. UTILIZATION MANAGEMENT

(Agency Note: The text of N.J.A.C. 11:24-8 Appendix follows without boldface or brackets symbolizing the technical changes; those portions of the appendix appearing in boldface is intended to be so permanently.)

APPENDIX

AN EXPLANATION OF AN INDIVIDUAL'S RIGHT TO APPEAL HEALTH INSURANCE DETERMINATIONS

Under the New Jersey Health Care Quality Act, certain individuals have the right to dispute a decision by a health insurance company or health maintenance organization or health service corporation (a carrier) concerning the medical appropriateness of requested covered services. Either the individual seeking the requested covered service or the health care provider (if authorized to act by the individual attempting to receive the service) can appeal to the carrier. If that appeal is unsuccessful, the individual or provider can appeal to an independent third party.

Internal Appeals Process

In most cases, the covered person or duly authorized provider MUST first comply with the carrier's internal appeal process BEFORE appealing to an independent third party. Under NJ law, a carrier must meet specific deadlines when responding to such an appeal. For persons covered under group plans the internal appeals process may require two stages. The deadlines for carriers to respond in each stage are:

- Stage 1: For cases involving urgent or emergent care a decision must be rendered within 72 hours. For all other cases a decision must be rendered within ten days.
- Stage 2: For cases involving urgent or emergent care a decision must be rendered within 72 hours. For all other cases a decision must be rendered within 20 days.

For persons covered under individual plans, there is only one stage of internal appeal and the timeframes for carrier responses are the same as those indicated above for "Stage 1."

Contact your carrier for information on how to follow the Internal Appeals Process.

**Deadline extensions are applicable under certain situations and with appropriate notice.*

Independent Health Care Appeals Program (IHCAP)

Appeals that remain unsuccessful after completion of the carrier's internal appeal process may be sent to the Independent Health Care Appeals Program (IHCAP). This is called a Stage 3 appeal. The IHCAP applies to health benefits plans offered through Medicaid and in the individual health insurance market. However, persons covered under a group plan through an employer may be covered under the IHCAP or another external appeal process and should contact the employer regarding any appeal process that applies under the employer's group plan. The IHCAP does not apply to individuals on Medicare.

Under the IHCAP, an eligible person's claim will be reviewed by an independent arbiter, called an Independent Utilization Review Organization (IURO), that is selected by the Department of Banking and Insurance. An IURO will determine whether the carrier's decision inappropriately denied coverage for a medically necessary covered service. If the IURO accepts the appeal, it will make a determination within 45 days, or within 48 hours for emergent appeals. The IURO's decision is binding, but the parties may have other remedies under State or Federal law.

**FOR MORE INFORMATION ABOUT IHCAP
CALL THE DEPARTMENT OF BANKING AND INSURANCE
TOLL FREE AT 1-888-393-1062
OR VISIT THE DEPARTMENT'S WEBSITE AT
www.dobi.nj.gov/ihcpappeals/**

HOW TO APPLY TO THE IHCAP

- Applications for the Independent Health Care Appeals Program are available online at <http://www.state.nj.us/dobi/chap352/352ihcapform.doc>
- The following must be attached to the **signed** Application in order to be considered:
 - ❖ A \$25.00 filing fee, via check or money order, made payable to "New Jersey Department of Banking and Insurance." * **DO NOT SEND CASH!**
 - ❖ A copy of the final written decision from the carrier;
 - ❖ A copy of the Summary of Insurance Coverage from the insurance policy, if available;
 - ❖ A copy of the Notice of Intent to Appeal an Adverse UM Determination – Stage 3 (provided to the patient by the insurance carrier if internal appeals were unsuccessful);
 - ❖ A copy of all medical records and correspondence to be reviewed; and
 - ❖ If the provider is filing on behalf of the patient: a copy of the Consent to Representation in Appeal of a Utilization Management Determination and Authorization of Release of Medical Records for Appeal and Arbitration of Claims form

*NOTE: The filing fee is waived if there is financial hardship evidenced by participation in the Pharmaceutical Assistance to the Aged or Disabled program, Medicaid, NJFamilyCare, General Assistance, SSI or New Jersey Unemployment Assistance.

- Mail to:

New Jersey Department of Banking and Insurance
Office of Managed Care
PO Box 329
Trenton, NJ 08625-0329
(courier service: 20 West State Street, 9th floor)

IMPORTANT: SEND ONLY COPIES OF ALL DOCUMENTS; ORIGINALS WILL NOT BE RETURNED.

**IF YOU HAVE QUESTIONS, CALL THE DEPARTMENT OF BANKING
AND INSURANCE TOLL FREE AT 1-888-393-1062**

SUBCHAPTER 14. INDEMNITY BENEFITS OFFERED BY A HEALTH MAINTENANCE ORGANIZATION

11:24-14.3 General standards

(a)-(d) (No change.)

(e) Submission of forms and rates to the Department shall be made [to and accompanied by the appropriate service fee, if any, specified at N.J.A.C. 11:1-32]:

Health Bureau
Life and Health Division
New Jersey Department of Banking and Insurance
PO Box 325
20 West State Street
Trenton, NJ 08625-0325] **electronically, pursuant to N.J.A.C. 11:4-40.4.**

(f)-(h) (No change.)

11:24-14.6 POS under a group health contract master policy arrangement

(a) The master policy form, certificate form, and any other form that becomes a part of the group health contract, as applicable, shall be submitted by the carrier [in duplicate in accordance with N.J.S.A. 17B:27-26 et seq., 17:48-1 et seq., 17:48A-1 et seq., or 17:48E-1 et seq., and N.J.A.C. 11:4-40, for filing to:

Health Bureau
Life and Health Division
New Jersey Department of Banking and Insurance
PO Box 325
20 West State Street
Trenton, NJ 08625-0325] **electronically, pursuant to N.J.A.C. 11:4-40.4.**

(b)-(g) (No change.)

LAW AND PUBLIC SAFETY

(a)

DIVISION ON CIVIL RIGHTS

Rules Pertaining to the Fair Chance in Housing Act
Adopted New Rules: N.J.A.C. 13:5

Proposed: September 7, 2021, at 53 N.J.R. 1467(b).

Adopted: November 23, 2021, by the New Jersey Division on Civil Rights, Rosemary DiSavino, Deputy Director.

Filed: November 24, 2021, as R.2021 d.150, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 46:8-64.

Effective Date: January 3, 2022.

Expiration Date: January 3, 2029.

Summary of Public Comments and Agency Responses:

The official comment period ended on November 6, 2021. The Division on Civil Rights (DCR) received comments from the following individuals:

1. James C. Williams, Director of Racial Justice Policy, Fair Share Housing Center (FSHC)
2. Sarah Blaine, Lead Organizer, Religious Action Center of Reform Judaism (RAC-NJ)
3. Nicholas Kikis, Vice President, Legislative & Regulatory Affairs, New Jersey Apartment Association (NJAA)
4. Nicole Morella, Director of Policy and Education, New Jersey Coalition to End Domestic Violence, on behalf of the following organizations:
 - Access Family Services
 - Center for Family Services/ SERV Program
 - Community Affairs and Resource Center
 - Family Connections
 - JBWS

Manavi

New Jersey Coalition to End Domestic Violence
Partners for Women and Justice
SAFE in Hunterdon
Womanspace, Inc.
Women Aware
WomenRising, Inc.

5. Rebecca Schore, Chief Counsel, and Maura Sanders, Chief Counsel, Legal Services of New Jersey (LSNJ)

6. "Jean Pbuliee Jean," JXXXXX1@gmail.com (email truncated)

1. COMMENT: Jean Pbuliee Jean expresses concern that "housing applications are destroying" New Jersey's natural resources.

RESPONSE: The Division on Civil Rights ("DCR" or "Division") appreciates the comment, but wishes to clarify that the chapter does not set forth the medium in which an application must be submitted, nor does it involve natural resources in New Jersey. Rather, the chapter implements the Fair Chance in Housing Act (the Act), which concerns the housing rights of certain persons with criminal records.

2. COMMENT: Jean Pbuliee Jean expresses generalized concern that equitable housing of people with criminal histories will result in a decrease in housing safety.

RESPONSE: DCR respectfully disagrees with the commenter. The chapter implements the Act, which concerns the housing rights of persons with criminal records. N.J.S.A. 46:8-53 states the New Jersey Legislature's findings and declarations that, among other things, formerly incarcerated New Jerseyans are more likely to become reincarcerated when they lack access to stable housing. Therefore, the Legislature has determined that housing stability increases safety for all New Jerseyans, including those with criminal records. The chapter sets forth a nondiscriminatory procedure for analyzing applicants' criminal records as contemplated within the Act.

3. COMMENT: Fair Share Housing Center (FSHC) and Reform Action Council of New Jersey (RAC-NJ) recommend clarifying the nature of the written disclosure at proposed N.J.A.C. 13:5-1.5(b) that a housing provider is required to provide a housing applicant notifying of its intent to consider their potential criminal history following a conditional offer. They recommend requiring that the disclosure be a standalone document; that it be provided in size 12 font and in accordance with the Department of Community Affairs Language Access plan by county; that it include an attestation for the applicant to sign, whether physically or electronically; that it include the provider's eligibility criteria; that it include the applicant's right to provide evidence of inaccuracies or mitigating factors; and that it include the process by which applicants can file a complaint alleging a violation.

RESPONSE: DCR appreciates the comment. The chapter, as drafted, requires the housing provider to disclose that their eligibility criteria include the review and consideration of criminal history, the applicant's right to provide evidence of inaccuracies or mitigating factors, and their right to file a complaint. DCR agrees with clarifying certain specifications of its Model Disclosure that will be made available on its website: it will be a standalone document, in at least size 12 font, and include an acknowledgement that the applicant has received the notice. The Model Disclosure on the website will be translated into English, Spanish, and any other language that the Director deems appropriate, on a case-by-case basis, as required at N.J.S.A. 46:8-57(a)(1). As a result, upon adoption, DCR will change those specifications for its Model Disclosure. DCR will also clarify that a housing provider will be deemed to have satisfied the statutory requirements if it provides a "completed and signed version" of the Model Disclosure, including the housing provider's name and the applicant's name in the spaces provided on the form, as well as physical or electronic signature.

4. COMMENT: FSHC recommends amending proposed N.J.A.C. 13:5-1.11 to require housing providers to affirmatively state their compliance with the Act in their advertisements, notices, and publications, as well as on all housing applications. FSHC suggests specific language based on Seattle's Fair Chance housing ordinance (Seattle Municipal Code Sec. 14.09.020). RAC-NJ states its support for FSHC's comment.

RESPONSE: DCR appreciates the comment. DCR has determined that the chapter, as adopted, remains necessary, proper, reasonable, understandable, and responsive for the purposes for which it was